

A. G. Contract No. KR95 0253TRN
ADOT ECS File No. JPA 95-24
Project: STP-056-1(9)/H4062 01C
Section: SR-86 - Sells, AZ

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOHONO O'ODHAM UTILITY AUTHORITY

THIS AGREEMENT is entered into 26 June, 1995,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
TOHONO O'ODHAM UTILITY AUTHORITY, acting by and through its
Operations Manager (the "TOUA").

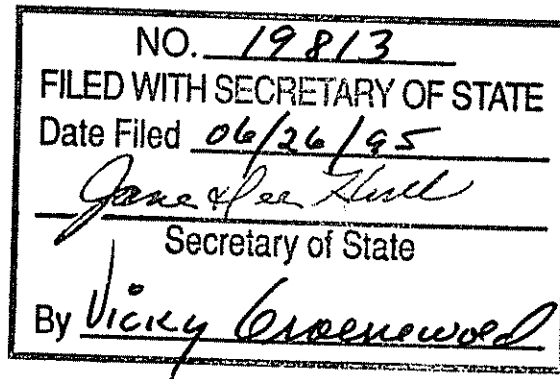
I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The TOUA is empowered by Tohono O'Odham Legislative
Council Resolution No. 94-534 to enter into this agreement, a
copy of which is attached hereto and made a part hereof,
resolving to enter into this agreement and authorizing the
undersigned to execute this agreement on behalf of the TOUA.

3. The State and the TOUA desire to participate in
designing, constructing and maintaining roadway lighting
warranted on SR-86 through the community of Sells, Arizona,
from approximately MP 113 to MP 115, hereinafter referred to as
the Project, for the safety and benefit of the motoring public.

THEREFORE, in consideration of the mutual agreements expressed
herein, it is agreed as follows:



II. SCOPE

1. The State will:

a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate TOUA comments as appropriate.

b. Call for bids, and award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for any contractor claims for extra compensation attributable to the State.

c. Upon completion, approve and accept the Project on behalf of the parties hereto.

2. The TOUA will:

a. Review the design documents and provide comments.

b. Be responsible for any contractor claims for extra compensation attributable to the TOUA.

c. Upon completion and acceptance by the State, provide maintenance and electrical energy to operate the lighting.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project; provided, however, that this agreement, except any provisions herein for maintenance and electrical energy, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Tohono O'Odham Utility Authority
Operations Manager
PO Box 816
Sells, AZ 85634

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOHONO O'ODHAM UTILITY AUTHORITY

STATE OF ARIZONA

Department of Transportation

By



MARVIN WHITAKER

Operations Manager

Charles W. Wiesp

General Manager

By



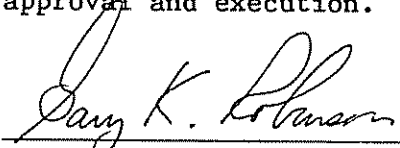
CHARLES K. EATON

State Traffic Engineer

RESOLUTION

BE IT RESOLVED on this 30th day of January 1995, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the Tohono O'odham Utility Authority for the purpose of defining responsibilities for the design, construction and maintenance of SR-86 highway lighting improvements through the community of Sells, Arizona.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.


For, LARRY S. BONINE
Director

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Appropriation for Operation, Maintenance
and Repair of Street Lighting of Highway 86 in Sells)**

RESOLUTION NO. 94-534

**WHEREAS, the Arizona Department of Transportation ("ADOT") has
secured federal funding to install street lights along
Highway 86 in Sells between mile post 113 and mile post
115; and**

**WHEREAS, ADOT's October 1993 traffic engineering evaluation
indicates that street lighting of this portion of the
highway will contribute to the safety of Sells Community
members as well as all those who use the highway; and**

**WHEREAS, pursuant to ADOT'S proposal, ADOT will install the light
poles, however, the Nation will be responsible for the
cost of operation, maintenance and repair of the lights
and poles; and**

**WHEREAS, the Natural Resources Committee and the Budget &
Finance Committee have suggested to the Nation's Utility
Authority ("TOUA") that ADOT and TOUA enter into an
agreement for the installation and operation of the
street lights, and that TOUA bill the Nation accordingly
for the annual cost of operation, maintenance and
repair; and**

**WHEREAS, TOUA estimates the annual cost of operation,
maintenance and repair between**

RESOLUTION NO. 94-534**(Authorizing Appropriation for Operation, Maintenance
and Repair of Street Lighting of Highway 86 in Sells)****Page 2 of 4****NOW, THEREFORE, BE IT RESOLVED THAT:**

- 1. Tohono O'Odham Utility Authority is authorized to collect from the Nation the annual cost of the operation, maintenance and repair of the street lights ADOT proposes to install in Sells on Highway 86.**
- 2. The sum of \$19,000., is hereby appropriated from the Nation's General Fund to cover the annual cost of such operation, maintenance and repair.**
- 3. Tohono O'Odham Utility Authority shall submit to the Nation's Chief Financial Officer a written proposal and budget for the annual cost of such operation, maintenance and repair.**
- 4. The Chief Financial Officer shall add such cost to the appropriate tribal budget and amend such budget for the current fiscal year accordingly; hereafter, the Chief Financial Officer shall include such annual cost in the appropriate annual budget.**
- 5. Any amount of this appropriation not utilized in this current fiscal year for the cost of operation,**

RESOLUTION NO. 94-534

**(Authorizing Appropriation for Operation, Maintenance
and Repair of Street Lighting of Highway 86 in Sells)
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**maintenance and repair of the street lights shall be
returned to the general fund as savings.**

**The foregoing Resolution was passed by the Tohono O'Odham
Legislative Council on the 09TH day of DECEMBER, 1994 at a
meeting at which a quorum was present with a vote of 1,583.0 FOR;
-0- AGAINST; -0- NOT VOTING; and 180.0 [06] ABSENT, pursuant to
the powers vested in the Council by Section 1(d) of Article VI of the
Constitution of the Tohono O'Odham Nation, adopted by the Tohono
O'Odham Nation on January 18, 1986; and approved by the Acting
Deputy Assistant Secretary - Indian Affairs (Operations) on March 6,
1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).**

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Alex J. Ramon, Legislative Chairman

13th day of December, 1994

ATTEST:


Acting Legislative Secretary

13th day of December, 1994

**Said Resolution was submitted for approval to the office of the
Chairman of the Tohono O'Odham Nation on the 13th day of
December, 1994 at 1205 o'clock, P.M., pursuant to the
provisions of Section 5 of Article VII of the Constitution and will
become effective upon his approval or upon his failure to either
approve or disapprove it within 48 hours of submittal.**

RESOLUTION NO. 94-534
(Authorizing Appropriation for Operation, Maintenance
and Repair of Street Lighting of Highway 86 in Sells)
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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Alex J. Ramon, Legislative Chairman

☒ **APPROVED**

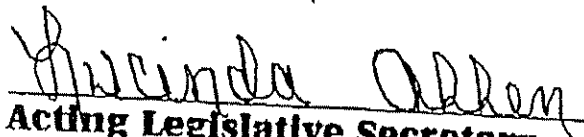
on the 13 day of December, 19 94

☐ **DISAPPROVED**

at 3:14 o'clock, P.M.


SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

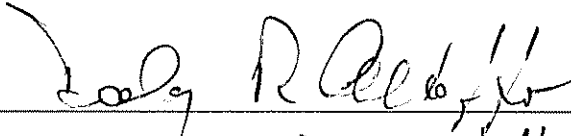
Returned to the Legislative Secretary on the 13th day of
December, 19 94, at 4:06 o'clock, P.M.


Acting Legislative Secretary

APPROVAL OF
THE TOHONO O'ODHAM NATION UTILITY AUTHORITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the TOHONO O'ODHAM NATION UTILITY AUTHORITY and declare this agreement to be in proper form and within the powers and authority granted to the Nation under the laws of the Nation.

DATED this 1st day of June, 1995.



~~Tribal~~ Attorney for Tohono O'odham
Utility Authority